

CAHILL GORDON & REINDEL LLP

SUITE 950

1990 K STREET, N.W.

WASHINGTON, D.C. 20006-1181

EIGHTY PINE STREET
NEW YORK, N.Y. 10005-1702
(212) 701-3000
FAX: (212) 269-5420

TELEPHONE (202) 862-8900
FACSIMILE (202) 862-8958

AUGUSTINE HOUSE
6A AUSTIN FRIARS
LONDON, ENGLAND EC2N 2HA
(011) 44.20.7920.9800
FAX: (011) 44.20.7920.9825

ANGELA F. COLLINS | 202-862-8930 | acollins@cgrdc.com

May 16, 2012

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket Nos. 09-197, 11-42 - Notice of Ex-Parte Presentation

Dear Secretary Dortch:

On May 15, 2012, Christopher Bunce, General Counsel of Birch Communications, Inc. ("Birch"), Gregory Corwin, Director of Marketing for Birch, and the undersigned met with Garnet Hanley, Alexander Minard, and Divya Shenoy of the Wireline Competition Bureau. The parties discussed matters related to Birch's request for designation as an Eligible Telecommunications Carrier ("ETC") and the Compliance Plan filed by Birch to satisfy the grant of conditional forbearance from the facilities requirement associated with ETC designation.

During the meeting, Birch reiterated and expanded on its proposed process for identifying and verifying eligible consumers to participate in its proposed wireless Lifeline service offering. The parties also discussed the edits necessary to Birch's Compliance Plan to provide further detail on the process and methodologies Birch plans to utilize. Birch distributed the attached presentation, which provides background information on Birch as well as further detail on its proposed methodologies for verifying eligibility, obtaining customer certifications, conducting annual re-certifications, and de-enrolling customers as necessary. Birch plans to amend its Compliance Plan consistent with the parties' discussions and re-file it under separate cover.

Please contact the undersigned if you have any questions regarding this matter

Respectfully submitted,



Angela Collins
Counsel to Birch Communications, Inc.

Attachment

cc: Garnet Hanley
Alexander Minard
Divya Shenoy

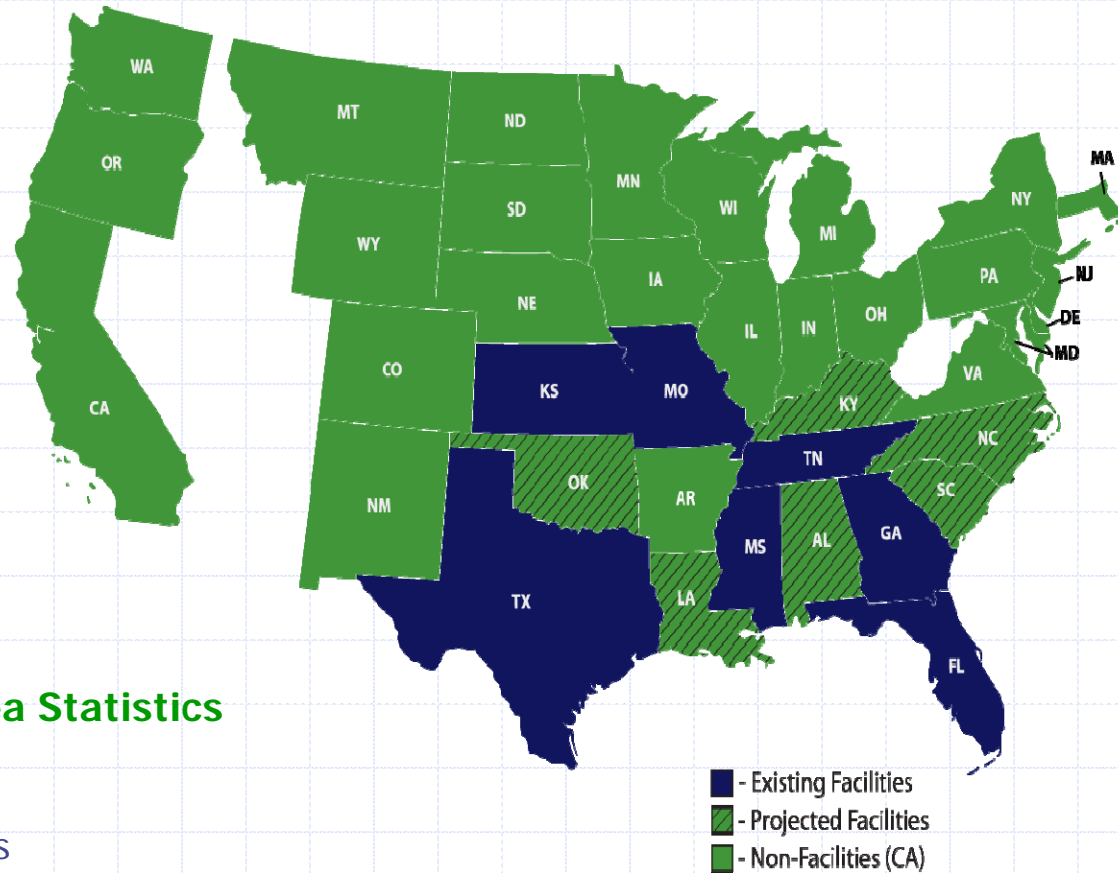
Meeting with FCC

May 15, 2012

Chris Bunce, Vice President and General Counsel

Greg Corwin, Director of Marketing

Current Service Area



Key Service Area Statistics

- 38 states
- 56 major markets
- 330,000 access lines
- 118,000 customers



Company Overview

Birch Communications:

- Competitive Local Exchange Carrier (CLEC) founded in 1996 – 16th Anniversary
- Access Integrated Networks, Inc. was re-branded as Birch Communications following the Feb. 2008 acquisition of CLEC – Birch Telecom
- Headquartered in Atlanta, GA with a 38-state footprint
- Provide IP voice / data communications and managed IT services to over 118,000 customers
 - Core IP-Network in 7 states in the Southeast and Southwest
 - Strategic relationship with Sprint to provide wireless broadband data and voice services

Birch As a Telecom Survivor

Surviving in a Tough Economic Environment

- Throughout the economic downturn:
 - Continued to generate significant EBITDA
 - Maintained or improved operating efficiencies and earnings quality
 - Achieved record sales
 - June 2011, completed \$77.5M debt refinancing
 - Completed 9 asset acquisitions
 - Built out additional 60+ central offices expanding facilities network, investing millions in network expansion

Management Team

Name	Title	Background
Vincent Oddo	President and CEO	<ul style="list-style-type: none"> • 29 year landline and wireless telecom veteran • Served as EVP and COO at Network Telephone • Served as EVP and CIO at NuVox Communications • Served as SVP of Graphic Scanning Corp (BellSouth predecessor firm)
Chris Aversano	Executive VP and COO	<ul style="list-style-type: none"> • 25 year landline and wireless telecom veteran • Served as VP of Engineering at Network Telephone • Served as VP of Service Delivery at NuVox Communications • Served as Director of Service Delivery at Covad
Edward James	Sr. VP and CFO	<ul style="list-style-type: none"> • 22 year finance and accounting veteran • Served as CFO at American Telecom Services • Served as Director of Finance at Carters and UPS
Chris Ramsey	Sr. VP Sales and Marketing	<ul style="list-style-type: none"> • 11 year telecom veteran • Served as Director of Telesales at Birch Telecom
Tom Stachowiak	VP Information Technology	<ul style="list-style-type: none"> • 15 year information technology veteran • 10 year telecom veteran
Chris Bunce	VP and General Counsel	<ul style="list-style-type: none"> • 17 year telecom veteran • Served as Counsel for GST, Call America, Hawaii Online, Whole Earth Networks

Business Strategy

Smart-Build Network Strategy:

- State-of-the-Art Softswitch / IP-Network Architecture
- Build-out IP-Network in new markets only when we have appropriate customer density
- Gross margins increase after customer migration to the Birch IP-Network

Concentrate on Highly Efficient and Effective Operations:

- Utilize five diverse, cost effective sales channels
- Operations centers located in Macon, GA and Emporia, KS
- Designed, developed, implemented and own all significant BSS and OSS systems

Deliver Comprehensive Suite of Products and Award-Winning Customer Care:

- Comprehensive voice and data solutions; hosted solutions; and managed solutions
- Superior care gives Birch a competitive advantage in the underserved SMB market

Growth through Organic Sales, Strategic Acquisitions and Strategic Product :

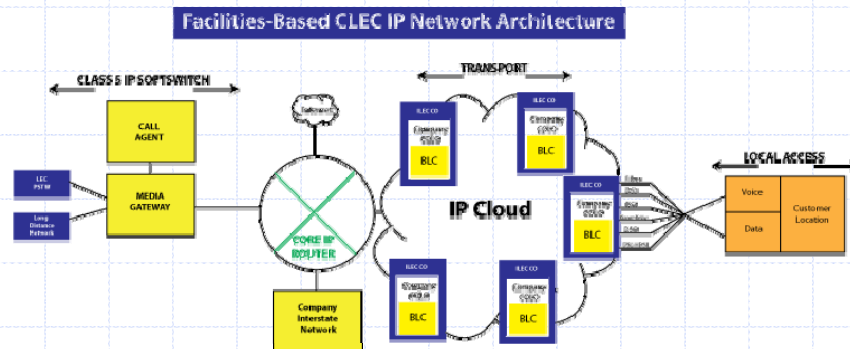
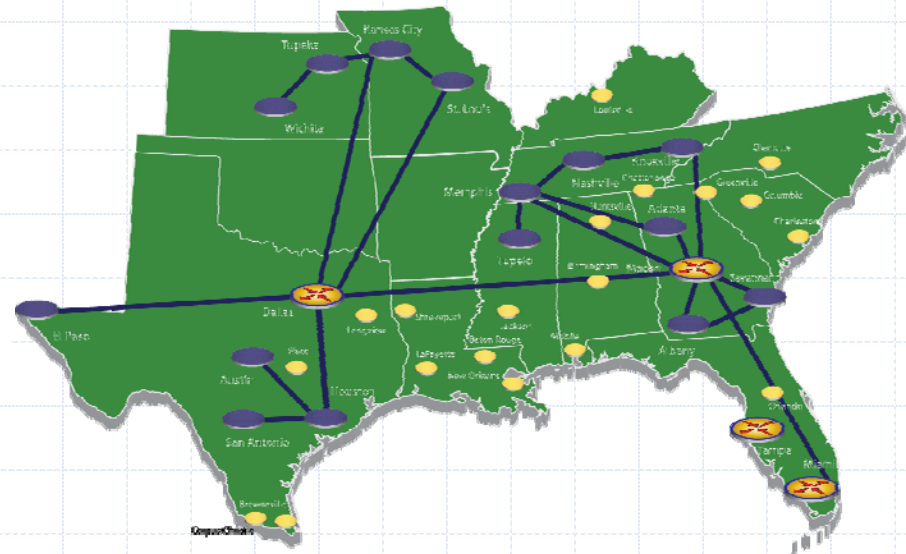
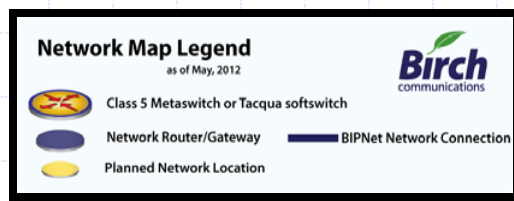
- Continue focus on accretive acquisitions within our current footprint markets
- Expansion of carrier wholesale business
- Expansion of wireless NOW Communications
- Expansion of wireless broadband Internet and voice services

Product Overview

Birch Communications:

- Provide IP voice / data communications and managed services
- Serve mostly small and medium sized business ("SMB") customers
- Voice: Local, LD, POTS, T1, Bonded T1, PRI, Wireless, Pay Phone Svc & Toll Free Svc
- Data: ADSL2+, T1, Wireless
- Managed Services: Email, Vmail, Visual VMail, Web-Hosting, Conf Calling, Application Hosting
- Vertical Offerings: Retail, Payphone, Corporate Housing & Remote Wireless Data

Facilities Network Overview



Information Technology Overview

Customer Care and Operations:

- Customer Care as a true competitive differentiator
 - Operations Centers in Macon, GA and Emporia, KS to serve our customers
 - Staffed 365 days/yr, 24 hours/day, 7 days/week
 - Received Purdue University certification as “Call Centers of Excellence” in 2008
 - Monitor Operations Centers to ensure we exceed our customers’ expectations
 - 80% of customer calls answered by a live rep within 60 seconds
- “Elite Care” further differentiates us in the marketplace
 - Serves our largest SMB customers in a unique and highly-specialized manner, similar to Vanguard Mutual Fund “Flagship” customer care program
 - Dedicated Elite Care Rep and “Rollover” Team acts as a one-stop solution provider
 - Dedicated Toll-Free number per customer & customized / unified reporting
- “Birch University” program to train and grow our staff
 - Training available for 100% of staff to learn new skills to better serve our customers
 - Pay-for-performance and training in new skills is part of our culture
 - Training is key to our staff retention & the result is an average tenure of 6.4 years

M&A Overview

<i>Date</i>	<i>Target</i>
Nov 2005	Cinergy
Aug 2006	Trinsic
Nov 2006	Sprint Local
Apr 2007	IDT
Feb 2008	Birch Telecom
Nov 2008	Navigator
Aug 2009	Cleartel, NOW
Dec 2010	AmericanFiberNet
Dec 2010	Close Call America
Jan 2011	Accutel
Oct 2011	Cordia (U.S. CLEC)
April 2012	AstroTel



- Completed 12 major asset acquisitions in past 6.5 years
- Typically, lines generate cash flow in excess of the purchase price within **12-18 months** of the acquisition, resulting in very short payback periods

Market Growth Recognition



Why ETC Application?

It is the next natural strategic step for NOW Communications

- NOW Communications began offering landline prepaid services in March of 1996 in Jackson, MS
- Birch acquired the assets and brand of NOW Communications in 2009
- The market for prepaid Lifeline services has been moving from landline to wireless, and this move is accelerating due to market demands and the recent facilities forbearance and additional changes made by the FCC
- Wireless Lifeline services are essential for NOW Communications business unit to achieve targeted growth potential and long-term viability

Why ETC Application?

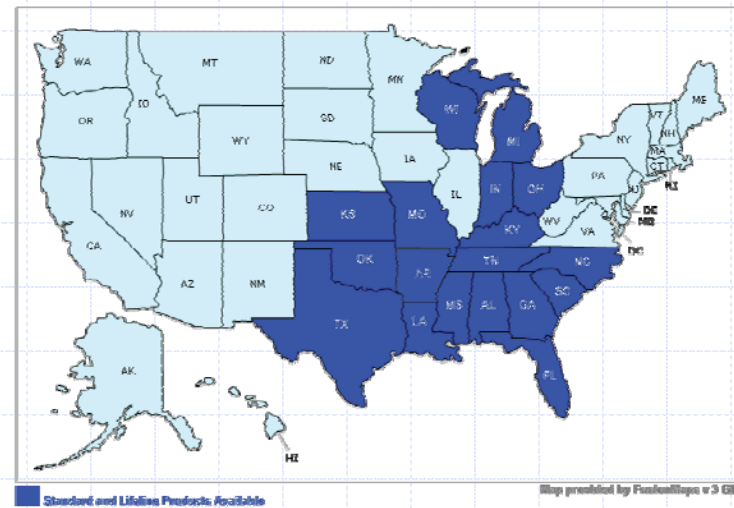
Additional factors uniquely prepare Birch to be successful in achieving the growth objectives of NOW and the Federal Lifeline assistance program.

They include but are not limited to:

- Birch is, and will be providing additional wireless services to meet the needs of its customers
 - Full MVNO contract in place with Sprint for wireless voice and data services
 - Birch already provides wireless Internet service to its customers through its MVNO agreement with Sprint
- 
- Birch has been providing high-quality communications services for 16 years, and can leverage 16 years of experience in providing excellent service to the Lifeline market.
 - Mature call center and customer service management
 - Mature billing and operational support system staff
 - Marketing experience to effectively reach the Lifeline target segment



- NOW markets in 18 states



- 14

NOW Communications Overview



Prepaid
Home phone service
starting at

\$15.99!*

Lifeline Pricing

Now You're Talking
NOW
COMMUNICATIONS

www.nowcommunications.com

*Taxes and fees not included. Prices subject to change.

**Free installation,
No credit checks,
No contracts,
No problem!**

NOW Value Line:
\$15.99 per month
including Lifeline Discount
Unlimited Local Calling Included

Optional Features:
Inside Wire Maintenance
Unlisted Number
Caller ID
Call Waiting
Call Block
Call Forwarding
Call Return
Call Tracing
Speed Calling
Three-Way Calling

Contact Your Authorized
NOW Communications Dealer

877-822-8501

www.nowcommunications.com



Four Ways to Prepay

1.



**NOW
Authorized
Dealers.**
Contact Customer
Service to locate your
nearest authorized
dealer. Call
888-565-1011.

2.



By Phone.
Have your account and
credit/debit card
number ready, and call
Customer Service at
888-565-1011.

3.



**Any Walmart
Store!**
Visit any Walmart
MoneyCenter or
customer service desk
with cash or a PIN-
based credit card to
pay your bill.*

4.



**Anywhere
you see
CheckFreePay.**
There are over 20,000
payment locations nation-
wide to serve you.
Contact Customer Service to
locate your nearest payment
center. Call 888-565-1011.

Remember your NOW Authorized Dealer first!

*Payment must be processed at Walmart by 11:00 p.m. ET. Available business days include weekends and bank holidays. Post date or suspended accounts are not eligible for this payment option. Check with your dealer for actual payment posting time and availability. CheckFreePay Payment services provided by CheckFreePay. Walmart is an authorized agent of CheckFreePay. Not all dealers are available. Refer to application and contract for conditions. Products and services offered may vary by location. All prices are subject to change without notice. Ask associates for details.

**Home Phone Service
Starting at \$15.99!**

Now You're Talking
NOW
COMMUNICATIONS

- **Free Installation**
- **No credit checks**

Home phone starting at \$15.99

800-4-A-PHONE

(800-427-4663)

Free install, no credit checks.

Now You're Talking
NOW
COMMUNICATIONS

NOW Lifeline Wireless

Product Offerings

- Core Offering
 - Free handset
 - Multiple models of free handsets may be offered, depending upon availability and market conditions
 - 250 free minutes a month, nationwide
 - Voicemail
 - National texting, with each text sent or received counting as one minute
 - 911 and e911 access as available
 - Option to purchase additional minutes to carry over for 2 months
 - International calling option with per minute pricing based upon country called, which will be provided to customer when opting for this
 - Additional minute pricing:

Minutes	Price
200	\$13.95
250	\$16.95
300	\$19.95
400	\$25.95
900	\$49.95
- Additional handsets and plans will be made available for an additional cost, as availability and market conditions allow

NOW Lifeline Wireless

Sales and Marketing

- Birch currently markets wireline Lifeline services, and will expand its marketing and sales mix with the addition of wireless Lifeline services.
- Sales and marketing efforts will rely on a variety of media, almost all having an online component.
 - All marketing and sales channels will drive consumers ultimately to a process where the certification/application form will be uniform and able to be faxed, mailed, emailed, performed via TPV, or completed online to a single group within Birch.
 - Documentation will be able to be faxed, mailed, emailed to a single group within Birch, prior to national database.
- Major marketing/sales channels will include, but not limited to (all targeted to reach those consumers likely to qualify for the service):
 - Online, through search engine marketing and select banner advertising
 - Targeted direct mail
 - State agencies, community action/outreach organizations and other non-profits
 - Inclusion in resource guides and printed materials
 - Referral partnerships
 - Third party referral agents who serve the Lifeline population
 - Retail product and service locations that serve the Lifeline segment
 - Daily and weekly publications and periodicals that serve Lifeline demographics
 - On an individual case basis where ROI criteria are met:
 - Event sponsorships
 - Radio advertising
 - Outdoor (billboards, buses, other outdoor media)
 - Outbound calling

NOW Lifeline Wireless

Compliance

- Birch currently offers wireline Lifeline services as a compliant non-ETC reseller, and will modify its current procedures to comply with the new rules as both a non-ETC reseller and as a wireless ETC
 - Birch is intimately familiar with compliance and will build on its current expertise.

Compliance – Initial Service Enrollment

Illustrative process:

- Sales/marketing channel generates prospective customer
- Birch sales rep verifies prospect is in the Birch serviceable area
- Birch sales rep verifies initial prequalification for Lifeline
- Birch sales rep explains products and services
- Birch sales rep obtains completed certification/application form for service
 - Via completion of online form with e-signature, mail, email, fax, TPV
 - Form is stored and held in Birch order processing system until documentation is received
- Birch Sales Rep obtains primary documentation for eligibility and checks for duplicative service
 - Verify through national database, and prior to national database:
 - Utilize State databases where feasible; if not available, receive via mail, email, fax.
 - Birch representatives will receive special training on evaluating documentation
 - Birch rep will also check its own records for duplicative service.
 - Document is stored in order processing system temporarily
 - If the order is complete – completed certification/application form and correct documentation - Birch sales rep will note the type of documentation provided and the date in the Birch order processing system. The primary documentation received will either be destroyed or returned to the prospective customer upon request.
 - If the order is cancelled for any reason the primary documentation received will either be destroyed or returned to the prospective customer upon request.
- The service order is then processed through the Birch order processing system

NOW Lifeline Wireless

Compliance – annual re-certification and de-enrollment for failure to recertify

Illustrative process:

- Birch customer information system (CIS) tracks anniversary date of Lifeline subscribers, and will generate report alerts and activity based upon anniversary date, or FCC mandated timeframe.
- Birch CIS will query national database to re-certify. Until then Birch will use state level databases as feasible, and where databases are not available:
 - Send a letter to the subscriber 30 days in advance of their anniversary date. This letter may be accompanied by a text message to the wireless handset of the subscriber, and/or an automated voicemail.
 - Documentation/forms for recertification can be administered via the same methods as initial enrollment.
 - Birch will also contact subscribers and notice recertification if the subscriber call into Birch customer service and is 30 days or loser to their anniversary date.
- Birch CIS will track anniversary dates and recertification, and generate reports and alerts to disconnect service after 30 days after the anniversary date.
- A disconnect order will be placed for disconnect for no later than five days after the 30-day window.
- Birch will notice the national database of this de-enrollment.

NOW Lifeline Wireless

Compliance – De-enrollment for Duplicative Service

Illustrative process:

- FCC, a state or USAC notices Birch that a Birch subscriber is receiving Lifeline service from another carrier.
- A disconnect order will be placed for disconnect for no later than five days from the notice date.
- A de-enrollment update will be sent to the national database or appropriate state database.

NOW Lifeline Wireless

Compliance – De-enrollment for non-usage

Illustrative process:

- Birch customer and network systems will run usage reports regularly, automatically identifying subscribers who have zero usage for 60 consecutive days.
 - Non-usage defined per Commission rules
 - All Birch handsets will transmit 911 calls regardless of their subscription status
- Birch will issue a letter within 5 days of the 60-day period of consecutive non-usage, and may initiate a text message, automated call/voicemail or outbound call
 - Subscriber will be flagged in Birch CIS as a candidate for de-enrollment for non-usage
- Birch will allow 15 days for mail delivery and handling and a 30-day notice period.
- Birch CIS will track responses, and alert on the 45th day after the 60-day non-usage period that de-enrollment should occur.
- On the 46th day, Birch will initiate de-enrollment and notify the national and/or state database.